

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6304**

**BILL NUMBER:** SB 390

**NOTE PREPARED:** Dec 28, 2009

**BILL AMENDED:**

**SUBJECT:** Airline Consumer Advocate.

**FIRST AUTHOR:** Sen. Waltz

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Office of the Airline Consumer Advocate (office) in the Attorney General's office. It requires the office beginning January 1, 2011, to: (1) investigate certain alleged or suspected violations or acts by air carriers; (2) assist consumers in resolving disputes with air carriers; (3) identify problems encountered by consumers in dealing with air carriers; (4) report annually to the Legislative Council on the office's activities; and (5) establish a toll-free telephone number, a mailing address, and a web site to receive complaints and questions from consumers.

The bill provides that if the office determines that an air carrier has committed a specified violation or act, the office shall attempt to reach a settlement with the carrier. It provides that the office may obtain any of the following as part of a settlement agreement: (1) Compensation for affected consumers. (2) The reasonable costs of the office's investigation. (3) A civil penalty not exceeding \$1,000 for each violation or act. It allows the Attorney General to bring an action to: (1) obtain any remedy available under a settlement agreement; (2) enforce a settlement agreement; or (3) collect an unpaid civil penalty.

This bill establishes the Airline Consumer Advocate Account within the state General Fund to be used for the office's operations. It provides that civil penalties recovered by the office from air carriers shall be deposited in the account. It continuously appropriates money in the account to the office.

The bill requires an air carrier to provide the following whenever passengers have boarded an aircraft and are delayed for more than three hours before takeoff: (1) Electric generation service. (2) Waste removal service. (3) Adequate drinking water, food, and refreshments. It requires an air carrier to provide notice of consumers' rights by posting signs at certain specified areas in each airport in Indiana. It also allows a consumer to submit a complaint to the office alleging that an air carrier has committed specified violations or acts.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** This bill will increase administrative costs for the Attorney General's (AG) office of between approximately \$0.25 M and \$0.50 M in FY 2011 and potentially \$1 M in FY 2012 or when the program is fully implemented. The AG's office estimates that 13 staff will be needed to establish the Office of the Airline Consumer Advocate (OACA) when fully implemented. The estimated costs include increased personnel costs as well as rent for office space needed for the estimated 13 staff people. Although the bill is effective upon passage, the OACA is not required to begin its duties until January 1, 2011. Therefore, the FY 2011 estimate assumes that it will take 3 to 6 months for the number of consumer complaints to rise to a level requiring all 13 additional staff estimated by the AG's office. Please note that any increase in costs may be offset by any civil penalties collected by the OACA (see *Explanation of State Revenues*).

The exact amount of the impact will ultimately be determined by the level of staffing and other resources required to establish and maintain the OACA that the AG is required to establish under the bill. The bill establishes the Airline Consumer Advocate Account (ACA Account) within the state General Fund. The ACA Account is continuously appropriated to the OACA for administration and enforcement of the provisions in the bill. The ACA Account may also consist of appropriations from the General Assembly or money from any other source.

**Explanation of State Revenues:** Depending upon the settlements reached, civil penalties imposed, and court judgments obtained from violations occurring under this bill, there could be an increase in state revenues. It is estimated that any revenues collected would be used to offset the increase in expenditures in establishing the OACA, as described above. The bill requires civil penalties collected by the OACA to be deposited in the ACA Account within the state General Fund. The bill creates the ACA Account and provides that the money in the account is continuously appropriated to the OACA for use in implementing the provisions in the bill.

**Background Information:** The following is a summary of the duties required of the OACA as set forth in this bill, beginning January 1, 2011:

- (1) Investigate allegations of air carriers providing unsafe, unjust, discriminatory, or inadequate service.
- (2) Investigate an air carrier's refusal or failure to provide service.
- (3) Investigate allegations of violations of IC 24-10-2-1 (as established in the bill), which requires air carriers to ensure that if takeoff is delayed more than three hours after boarding the following things are provided to the passengers: (a) electricity for lighting and air circulation within the plane; (b) waste removal services; and (c) adequate drinking water, food, and other refreshments.
- (4) Investigate allegations of violations of IC 24-10-2-2 (as established in the bill), which requires air carriers to provide notice through signs posted in certain locations of the rights listed in (3) above.
- (5) Assist consumers in resolving disputes, as well as obtaining settlements for violations.
- (6) Identify problems that consumers routinely encounter with air carriers.
- (7) Prepare an annual report to submit to the Legislative Council.
- (8) Publicize and maintain a toll-free number, mailing address, and web site.

After an investigation and a determination that a violation has occurred, the OACA must attempt to resolve

the matter by reaching a settlement with the air carrier. As part of the settlement the OACA may obtain any of the following:

- (1) Compensation for the consumer affected by the violation.
- (2) Reasonable costs of the OACA investigation.
- (3) A civil penalty of up to \$1,000 *per passenger* affected by the violation.

Furthermore, the AG is authorized under the bill to bring a court action to enforce the penalty or obtain any remedy described in the bill if a settlement is not reached. The AG may also initiate an action to obtain an injunction to enjoin future or continuing violations. The bill allows the AG to recover the costs of the action.

*Additional Background Information:* On December 21, 2009, the U.S. Department of Transportation announced a new rule that strengthens protections afforded to consumers by establishing a hard time limit after which U.S. airlines must allow passengers to deplane from domestic flights. The rule prohibits U.S. airlines operating domestic flights from permitting an aircraft to remain on the tarmac for more than three hours without deplaning passengers with certain exceptions. Airlines could be fined \$27,500 *per passenger* for each violation of the three- hour limit. Carriers are also required to provide adequate food and potable drinking water for passengers within two hours of the aircraft being delayed on the tarmac and to maintain operable lavatories and, if necessary, provide medical attention.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** AG.

**Local Agencies Affected:**

**Information Sources:** Matt Light, Deputy Attorney General, AG's Office; 317-232-4774; U.S. Department of Transportation <http://www.dot.gov/affairs/2009/dot19909.htm>

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